

REFERENCE TITLE: tobacco use; sale; minimum age

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1209

Introduced by
Senators Pace; Leach; Representative Osborne

AN ACT

AMENDING SECTIONS 13-3622, 36-798, 36-798.01 AND 36-798.02, ARIZONA
REVISED STATUTES; RELATING TO TOBACCO.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3622, Arizona Revised Statutes, is amended to
3 read:

4 13-3622. Tobacco products, vapor products and tobacco or
5 shisha instruments or paraphernalia; furnishing to
6 underage person; underage persons buying,
7 possessing or accepting; misrepresentation of age
8 by underage persons; classification; definitions

9 A. A person who knowingly sells, gives or furnishes a tobacco
10 product, a vapor product or any instrument or paraphernalia that is solely
11 designed for ~~the~~ smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha,
12 including a hookah or waterpipe, to a ~~minor~~ **PERSON WHO IS UNDER TWENTY-ONE**
13 **YEARS OF AGE** is guilty of a petty offense.

14 B. A ~~minor~~ **PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND** who
15 buys, ~~or has in his possession~~ **POSSESSES** or knowingly accepts or receives
16 from any person, a tobacco product, a vapor product or any instrument or
17 paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~
18 **INGESTING** tobacco or shisha, including a hookah or waterpipe, is guilty of
19 a petty offense, and if the offense involves any instrument or
20 paraphernalia that is solely designed for ~~the~~ smoking or ~~ingestion of~~
21 **INGESTING** tobacco or shisha, shall pay a fine of ~~not less than one hundred~~
22 ~~dollars~~ **AT LEAST \$100** or perform ~~not less than~~ **AT LEAST** thirty hours of
23 community restitution.

24 C. A ~~minor~~ **PERSON WHO IS UNDER TWENTY-ONE YEARS OF AGE AND** who
25 misrepresents the ~~minor's~~ **PERSON'S** age to any **OTHER** person by means of a
26 written instrument of identification with the intent to induce the **OTHER**
27 person to sell, give or furnish a tobacco product, a vapor product or any
28 instrument or paraphernalia that is solely designed for ~~the~~ smoking or
29 ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or waterpipe,
30 in violation of subsection A or B of this section is guilty of a petty
31 offense and, notwithstanding section 13-802, shall pay a fine of not more
32 than ~~five hundred dollars~~ **\$500**.

33 D. This section does not apply to any of the following:

34 1. Cigars, cigarettes or cigarette papers, smoking or chewing
35 tobacco or any instrument or paraphernalia that is solely designed for ~~the~~
36 smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or
37 waterpipe, if it is used or intended to be used in connection with a bona
38 fide practice of a religious belief and as an integral part of a religious
39 or ceremonial exercise.

40 2. Any instrument or paraphernalia that is solely designed for ~~the~~
41 smoking or ~~ingestion of~~ **INGESTING** tobacco or shisha, including a hookah or
42 waterpipe, that is given to or possessed by a ~~minor~~ **PERSON WHO IS UNDER**
43 **TWENTY-ONE YEARS OF AGE** if the instrument or paraphernalia was a gift or
44 souvenir and is not used or intended to be used by the ~~minor~~ **PERSON WHO IS**
45 **UNDER TWENTY-ONE YEARS OF AGE** to smoke or ingest tobacco or shisha.

- 1 E. For the purposes of this section:
- 2 1. "Shisha" includes any mixture of tobacco leaf and honey,
- 3 molasses or dried fruit or any other sweetener.
- 4 2. "Tobacco product" means any of the following:
- 5 (a) Cigars.
- 6 (b) Cigarettes.
- 7 (c) Cigarette papers of any kind.
- 8 (d) Smoking tobacco of any kind.
- 9 (e) Chewing tobacco of any kind.
- 10 3. "Vapor product":
- 11 (a) Means a noncombustible tobacco-derived product containing
- 12 nicotine that employs a mechanical heating element, battery or circuit,
- 13 regardless of shape or size, that can be used to heat a liquid nicotine
- 14 solution contained in cartridges. ~~Vapor product~~
- 15 (b) Does not include any product that is regulated by the United
- 16 States food and drug administration under chapter V of the federal food,
- 17 drug, and cosmetic act.
- 18 Sec. 2. Section 36-798, Arizona Revised Statutes, is amended to
- 19 read:
- 20 36-798. Definitions
- 21 In this article, unless the context otherwise requires:
- 22 1. "Bar" means that portion of any premises licensed under section
- 23 4-209, subsection B, paragraph 6, 7, 11, 12 or 14 that is primarily used
- 24 for the selling, consumption or serving of alcoholic beverages and that is
- 25 not primarily used for the consumption of food on the premises.
- 26 2. "Beedies" or "bidis" means a product containing tobacco that is
- 27 wrapped in temburni leaf (diospyros melanoxylon) or tendu leaf (diospyros
- 28 exculpra), ~~or any other product that is offered to,~~ or purchased
- 29 by, ~~consumers as beedies or bidis.~~
- 30 3. "Cigar" means a roll of tobacco or any lawful substitute for
- 31 tobacco that is wrapped in tobacco.
- 32 4. "Cigarette" means a roll of tobacco or any lawful substitute for
- 33 tobacco that is wrapped in paper or in any substance other than tobacco.
- 34 ~~5. "Minor" means a person who is under eighteen years of age.~~
- 35 ~~6.~~ 5. "Retail tobacco vendor" means a person who possesses tobacco
- 36 or tobacco products for the purpose of selling them for consumption and
- 37 not for resale.
- 38 ~~7.~~ 6. "Smokeless tobacco" includes shredded tobacco, snuff,
- 39 cavendish and plug, twist and other tobacco products that are intended for
- 40 oral use but not for smoking.
- 41 ~~8.~~ 7. "Smoking tobacco" includes any tobacco or tobacco product,
- 42 other than cigarettes and cigars, that is intended to be smoked.
- 43 ~~9.~~ 8. "Tobacco products" includes cigarettes, cigarette papers,
- 44 cigars, smokeless tobacco and smoking tobacco.

1 ~~10.~~ 9. "Vending machine" means any mechanical, electrical or
2 electronic device that, on insertion of money, tokens or any other form of
3 payment, automatically dispenses tobacco products.

4 Sec. 3. Section 36-798.01, Arizona Revised Statutes, is amended to
5 read:

6 36-798.01. Selling or giving beedies or bidis; underage
7 persons; violation; classification

8 A. It is unlawful for a retail tobacco vendor to sell, furnish,
9 give or provide beedies or bidis to a ~~minor~~ PERSON WHO IS UNDER TWENTY-ONE
10 YEARS OF AGE in this state.

11 B. Any person who violates this section is guilty of a class 3
12 misdemeanor.

13 Sec. 4. Section 36-798.02, Arizona Revised Statutes, is amended to
14 read:

15 36-798.02. Vending machine sales of tobacco and tobacco
16 products; signage; violation; classification

17 A. A person shall not sell tobacco products through a vending
18 machine unless the vending machine is located in either:

19 1. A bar.

20 2. An employee lounge area that is not open to the public and the
21 business in which the lounge area is located does not employ minors.

22 B. A sign measuring at least eighty square inches shall be
23 obviously affixed to the front of each vending machine. The sign shall
24 state in block letters, ~~THAT~~ it is illegal for a ~~minor~~ PERSON WHO IS
25 UNDER TWENTY-ONE YEARS OF AGE to purchase cigarettes or tobacco products
26 and, ~~upon~~ ON conviction OF VIOLATING THIS SUBSECTION, a PERSON MAY RECEIVE
27 A fine of up to ~~three hundred dollars may be imposed~~ \$300.

28 C. This article does not invalidate an ordinance of or prohibit the
29 adoption of an ordinance by a county, city or town to further restrict the
30 location of vending machines or specify different wording for the vending
31 ~~machines~~ MACHINE signs as required by subsection B of this section.

32 D. A person who violates this section is guilty of a petty offense.